

**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
CITY COUNCIL CHAMBERS
August 12, 2008**

1. Present

Commissioners:

Fred A. Terry, Chair
Sherwood Bishop, Vice Chair
Bill De Soto (*absent*)
Steve Cline (*absent*)
Ryan Thomason
Bill Taylor (*absent*)
Curtis Seebeck
Ruben Becerra (*absent*)
Randy Bryan

City Staff:

Cecil Pennington, Interim Director of Planning
Bill Couch, Development Projects Coordinator
Chance Sparks, Chief Planner
Phil Steed, Planner
Francis Serna, Recording Secretary
John Foreman, Senior Planning Technician

Others Present: Carol Adkins, Tom Pugh, Scott Ratcliff, Patrick Kirwin, Ed Theriot, Mark Gonzales, Kyle W. Maysel, Kelly Franks, Larry O. Rasco, Pat Sargent, Rey Garcia, and Kyle Mylius.

2. Call to Order and Announce a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Terry at 6:02 p.m. on Tuesday, August 12 2008 in the Council Chambers of the City of San Marcos City Hall, 630 E. Hopkins, San Marcos, Texas 78666.

3. Chairperson's Opening Remarks.

Chair Terry welcomed the audience and the television viewers. He announced that Item #17 (PVC-08-02) and #18 (PVC-08-03) have been withdrawn by the applicant. In addition, Item #19 (PDD-07-01) and #20 (PDD-08-02) will be postponed at the request of the applicants.

4. Executive Session

There were no discussions.

5. Citizen Comment Period

Mark Gonzales, Chair Elect of The Main Street Advisory Board, advised that the Board met on August 2, 2008 and discussed the parking variance requested by the proposed Concho Commons project. The Board unanimously supported the concept of the project. However, the Board expressed strong concerns about the impact that the proposed parking variance may have on surrounding businesses. Mr. Gonzales stated that the unanimous consensus of the Main Street Board was not to support any parking variances for the Concho Commons project.

Larry O. Rasco, with the Downtown Association stated that the proposed Concho Commons project is a good project. However, the parking is a major concern.

Kyle Maysel, Chairman of the Downtown Parking Advisory Board, stated that the Board unanimously supports the project. He stated that the Board is strongly in opposition to the parking variance. Mr. Maysel added that the proposed development would be good for the area and that all new development should be fully parked except under extraordinary circumstances which are not present in this instance.

6. CUP-08-23. Hold a Public Hearing and consider a request by Patricia Sargent, on behalf of San Marcos ES Catering Co., Inc. for a Conditional Use Permit to allow the on-premise consumption of liquor, beer, and wine at 1001 McCarty Lane.

John Foreman stated that The Embassy Suites and Conference Center is a new ten-story building scheduled to open in mid October. He added that the building meets the parking requirements for one space per room, but does not account for the commercial floor area. Mr. Foreman stated that there will be no entertainment and that beverages will be served from two locations in the lobby of the hotel and food will also be served. He mentioned that complimentary drinks will be provided to hotel guests from 5:30-7:30 p.m. Staff recommended approval of the request with the condition that the CUP be valid for one (1) year, provided standards are met, subject to the point system.

Chair Terry opened the public hearing. There were no public comments, and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Thomason, the Commission voted five (5) for and none (0) opposed, to approve the request with the condition that the CUP be valid for one (1) year, provided the standards are met, subject to the point system. The motion carried unanimously.

7. CUP-08-24. Hold a Public Hearing and consider a request by Patricia Sargent, on behalf of San Marcos ES Catering Co., Inc. for a Conditional Use Permit to allow the on-premise consumption of liquor, beer, and wine at 3101 S IH 35.

John Foreman advised the Commission that The Embassy Suites Hotel will have 283 suites and the Conference Center will have a total floor area of 78,300 square feet. He pointed out that 783 parking spaces are required and that 476 parking spaces are provided. In addition, portable bars will be used for banquet service in the conference center and entertainment will vary per event. Staff recommended approval of the request for one (1) year, provided standards are met, subject to the point system.

Chair Terry opened the public hearing. There were no public comments, and the public hearing was closed.

Commissioner Bishop commented that he supports the project although is concerned with the shortage of parking. He pointed out that there is vacant land adjacent to the property and hoped that additional parking could be provided.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Thomason, the Commission voted five (5) for and none (0) opposed, to approve the request for one (1) year, provided standards are met, subject to the point system. The motion carried unanimously.

8. CUP-08-25. Hold a Public Hearing and consider a request by Kyle Mylius, on behalf of Root Cellar Cafe, for an amendment of a TABC Conditional Use Permit to allow the on-premise consumption of mixed beverages, beer and wine for a restaurant located at 215 N. LBJ.

John Foreman gave a background overview of the case history. He explained that in addition to the current permit for The Root Cellar, both previous occupants held CUP's for alcohol consumption for at least a decade. In 2006, The Root Cellar received a three year renewal for a TABC CUP subject to conditions. He added that shortly after the renewal The Root Cellar ceased to serve alcohol. Mr. Foreman stated that ownership has changed and alcohol sales have resumed requiring a permit renewal. On April 22, 2008, a TABC Restricted CUP was granted for three years with conditions. The Root Cellar has proposed additional seating which requires two emergency exits. As part of the remodel, a new emergency exit has been added. A waiting area with four chairs is provided outside the front door and no food service or alcohol will be allowed outdoors. Mr. Foreman advised the Commission that staff has received the report of sales receipts showing food and alcohol sales, therefore should not be one of the conditions if the request is approved. Staff recommended approval of the Conditional Use Permit for three (3) years, provided the standards are met, subject to the point system and with the conditions that the applicant shall submit quarterly reports of sales receipts for alcohol and food sales, meet the reporting requirements as set forth in Section 4.3.4.2(b) (7) of the Land Development Code, not provide alcohol service to the waiting area and that no amplified music be provided without amending the CUP.

Chair Terry opened the public hearing. There were no public comments, and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Thomason, the Commission voted five(5) for and none (0) opposed, to approve the Conditional Use Permit for three (3) years, provided standards are met, subject to the point system and with the conditions that the applicant shall submit quarterly reports of sales receipts for alcohol and food sales, meet the reporting requirements as set forth in Section 4.3.4.2(b)(7) of the Land Development Code, not provide alcohol service to the waiting area and that no amplified music be provided without amending the CUP. The motion carried unanimously.

9. LUA-08-09. Hold a public hearing and consider a request by Patrick and Amy Kirwin for a future land use amendment from Low-Density Residential (LDR) to Mixed Use (MU) for the property located at 408 Valley Street.

Chance Sparks gave an overview of the staff report. He explained that the property is currently vacant and includes a former single-family residence undergoing renovations and is expected to develop as an urban plant nursery and garden design center. Mr. Sparks informed the Commission that the Horizons Master Plan supports the proposal to change from low-density residential to mixed use. He gave a brief overview of the policy statements most related to the proposal. Staff recommended approval of the request.

Chair Terry opened the public hearing. Kyle Mylius stated that he lives in the area and spoke in support of the request. There were no additional comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Seebeck, the Commission voted five (5) for and none (0) opposed, to approve the request. The motion carried unanimously.

10. ZC-08-14. Hold a public hearing and consider a request by Patrick and Amy Kirwin for a zoning change from Single Family Residential (SF-6) to Mixed Use (MU) for the property located at 408 Valley Street.

Bill Couch stated that the property is located in the Dunbar neighborhood, an area with a variety of land uses. The proposed landscape nursery would be a buffer in the neighborhood transition. Staff believes that the owners request is reasonable based on the existing condition of the property and the development pattern in that part of the neighborhood. Staff recommended approval of the zoning change request.

Chair Terry opened the public hearing. There were no public comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Bishop, the Commission voted five (5) for and none (0) opposed, to approve the request. The motion carried unanimously.

11. CUP-08-22. Hold a Public Hearing and consider a request by Patrick and Amy Kirwin for a Conditional Use Permit to allow the operation of a plant nursery in a Mixed Use Zoning District (MU) located at 408 Valley St.

John Foreman stated that the applicants are proposing to operate a plant nursery. The applicants have proposed to renovate the existing 920 square foot structure and add a 9850 square foot retail area. He pointed out that two similar categories were used to evaluate the parking requirements. According to the Land Development Code seven parking spaces are required and ten parking spaces are being provided. Staff believes a nursery would maintain a buffer between predominately commercial CBA without harming the historic character or adversely impacting the Dunbar neighborhood. Staff recommended approval of the request.

MOTION: Upon a motion made by Commissioner Thomason and a second by Commissioner Seebeck, the Commission voted five (5) for and none (0) opposed, to approve the request. The motion carried unanimously.

12. ZC-08-15. Hold a public hearing and consider a request by Hunter Road I, L.P., for a zoning change from General Commercial (GC) to Light Industrial (LI) for the property located in the 2500 block of Hunter Road, near the intersection of Hunter Road and Foxtail.

Bill Couch advised the Commission that the subject property is located in Sector 4 and that the property abuts the railroad tracks south of Wonder World Drive. The property is adjacent to the HEB Warehouse to the North and the San Marcos Bus Barn to the south of the property. Mr. Couch explained that the applicant had previously rezoned the Town Creek property to GC with the exception of a single light industrial tract adjacent to the railroad tracts. He stated that the owners request is reasonable based on the existing condition of the property and the development pattern in the area. Staff recommended approval of the request.

Chair Terry opened the public hearing. There were no citizen comments and the public hearing was closed.

Commissioner Bryan asked staff had received concerns regarding truck noise.

Bill Couch advised the Commissioner that staff had not received any comments or concerns.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Thomason, the Commission voted five (5) for and none (0) opposed, to approve the request. The motion carried unanimously.

13. QWPP2-08-0004. Consider a request by Baker-Aicklen & Associates, Inc., on behalf of Armbruster Holt LTD & William C. Holt for approval of a Qualified Watershed Protection Plan Phase II for The Grove at San Marcos, located at the southeast corner of IH-35 and East River Ridge Parkway.

Cecil Pennington advised the Commission that Kathy Woodlee, Senior Engineer, was unavailable to present her staff report. Mr. Pennington gave a brief overview of Ms. Woodlee's staff report.

Rey Garcia and Steve Ramsey, Baker-Aicklen & Associates gave a brief overview of the request.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Thomason, the Commission voted five (5) for and none (0) opposed, to approve the request. The motion carried unanimously.

14. PC-08-12(03). Consider the request by Baker-Aicklen & Associates, Inc., on behalf of Armbruster Holt, LTD & William C. Holt for approval of the final plat of The Grove at San Marcos, located at the southeast corner of IH-35 and East River Ridge Parkway.

Phil Steed stated that the Engineering Department has approved the Traffic Impact Analysis and has deemed the Qualified Watershed Protection Plan Phase II, as substantially complete and was previously approved by the Planning Commission. The Engineering Department has also deemed the Public Infrastructure Construction Plans as substantially complete. Mr. Steed added that the property owner wishes to file the plat prior to installation of public improvements. Therefore, the property owner will be required to complete a Subdivision Improvement Agreement with the City and provide sufficient security to ensure completion of the required public improvements before the final plat will be recorded. Staff recommended approval of the final plat, conditioned upon the approval of the Watershed Protection Plan Phase II.

Commissioner Seebeck inquired if a public hearing was required for the Qualified Watershed Protection Plan Phase II.

Cecil Pennington advised the Commission that staff will verify if a public hearing was necessary.

Commissioner Bishop commented that he supports the request. He expressed his appreciation to the Holt Family and the dedication of the nature preserve, Blanco Shoals Greenbelt.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Thomason, the Commission voted five (5) for and none (0) opposed, to approve the request. The motion carried unanimously.

15. PC-08-11(03). Consider a request by Bury+Partners, Inc., on behalf of Texas Properties for approval of a final plat of Lot 1, Ramsay Student Housing Subdivision, located at 225 Ramsay Street.

Phil Steed advised the Commission that the property is located in the northeast quadrant of San Marcos in Sector 3. The applicant is proposing to develop a 42 multi-family unit apartment complex. Mr. Steed stated that the Planning and Zoning Commission approved with conditions the preliminary plat for Lot 1, Kyle Hill Addition on September 25, 2007. The Engineering Department has approved the Traffic Impact Analysis and the Watershed Protection Plan Phase II. He added that the owner wishes to defer installation of public improvements and will complete a Subdivision Improvement Agreement with the City and provide sufficient security to ensure completion of the required public improvements before the final plat will be recorded. Staff recommendation approval of the request with the conditions that six foot wide sidewalks be constructed along Ramsay Street at time of construction of Ramsay Street and Parkland be dedicated or Fee-in-lieu-of paid (approved by the Parks Department) prior to the recording of the plat.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Seebeck, the Commission voted five (5) for and none (0) opposed, to approve the request with the conditions that six foot wide sidewalks be constructed along Ramsay Street at time of construction of Ramsay Street and Parkland be dedicated or Fee-in-lieu-of paid (approved by the Parks Department) prior to the recording of the plat. The motion carried unanimously.

16. PC-08-13(03). Consider a request by Pro-Tech Engineering Group, Inc., on behalf of The Master's School, for approval of the final plat of The Master's School, located at 1664 Centerpoint Road.

Phil Steed explained that the property is located in the southeast quadrant of San Marcos, situated on the south side of Centerpoint Road, approximately 0.8 miles east of IH-35. The applicant is proposing to establish Lot 1, The Master's School Addition. The site will be a private school. Mr. Steed mentioned that the preliminary plat for the property was approved by the Planning Commission at the July 22, 2008 regular meeting. In addition, the Engineering Department has approved the Traffic Impact Analysis and deemed the Watershed Protection Plan Phase II and Public Improvements Construction plans as substantially complete. Mr. Steed explained that in order to process the plat and develop an interim campus, utilizing portable school buildings, the City Council approved the applicant's request as stated in the staff report on August 5, 2008. Staff recommended approval of the final plat with the condition that the school shall comply fully with all lighting codes when they construct facilities or propose using the property for night time activities; and the school shall comply fully with all landscape requirements, including planting street trees along Master's School Drive and the un-named arterial along their southwest property line, when a site preparation permit is submitted for the permanent campus.

Commissioner Seebeck inquired on the plat notes

Cecil Pennington explained that the plat notes were added so that the applicant would comply with the current lighting and landscaping codes at the time of construction of a permanent campus.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Bryan, the Commission voted five (5) for and none (0) opposed, to approve the request with the conditions that the school shall comply fully with all lighting codes when they construct facilities or propose using the property for night time activities; and the school shall comply fully with all landscape requirements, including planting street trees along Master's School Drive and the un-

named arterial along their southwest property line, when a site preparation permit is submitted for the permanent campus. The motion carried unanimously.

17. PVC-08-02. Hold a public hearing and consider a request by Hermann Vigil, on behalf of Vince Wood & Ross Haug for a variance to Section 7.4.2.3 (a) of the Land Development Code requiring sidewalks in all subdivisions except in residential areas where all lots are equal to or exceed one acre in Windemere Ranch (a proposed subdivision), located at the intersection of Windemere Road and Lime Kiln Road.

The application was withdrawn by the applicant.

18. PVC-08-03. Hold a public hearing and consider a request by Hermann Vigil, on behalf of Vince Wood & Ross Haug for a variance of Section 7.4.1.2(d) of the Land Development Code requiring all subdivisions with 75 or more lots to have at least two points of vehicular access (primarily for emergency vehicles), in Windemere Ranch (a proposed subdivision), located at the intersection of Windemere Road and Lime Kiln Road.

The application was withdrawn by the applicant.

19. PDD-07-02. Continue the public hearing and postpone action on a request by David Denison representing SLF II McCarty Lane, LLP for a Planned Development Overlay Zoning District (PDD) for 259.52 acres, zoned Future Development (FD) and requesting General Commercial (GC), Community Commercial (CC) and Public zoning (P), located at the intersection of McCarty Lane and IH 35 South.

Chair Terry reopened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Thomason, the Commission voted five (5) for and none (0) opposed, to postpone the request to a date no later than the first meeting in October, 2008 and that the public hearing remain open. The motion carried unanimously.

20. PDD-08-01. Continue the public hearing and postpone action on a request by Darren Casey representing Bobcat Investors. Ltd and W.C. Carson of Carson Properties for a Planned Development Overlay Zoning District (PDD) for 1.46 acres zoned General Commercial (GC), located between LBJ Drive and Guadalupe Street and fronting onto Concho Street.

Chair Terry reopened the public hearing. Ed Theriot, Mitchell Planning Group stated that he didn't anticipate speaking, although wanted to take the time to clarify issues presented to the Planning and Zoning Commission during the Citizen Comment Period. Mr. Theriot pointed out that the Concho Commons project is not involved with a request for variances. He explained that variance requests are presented before the Zoning Board of Adjustments & Appeals. He further explained that the Concho Commons project was presented as a PDD which would be an opportunity for the City to negotiate and develop a unique development standard for the project. Mr. Theriot stated that they are proposing to develop a unique development in the downtown area. There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Thomason, the Commission voted five (5) for and none (0) opposed, to postpone the request to a date no later than the first meeting in October, 2008 and that the public hearing remain open. The motion carried unanimously.

21. Planning Director's Report

Cecil Pennington stated that he appreciated that the Commissioners attended the Joint Workshop of the City Council and Planning Commission on August 5, 2008. He advised the Commission that staff would present the recommendation of the Downtown Master Plan at their next Planning and Zoning Commission meeting. He asked the Commission to keep Chair Terry informed when they would not attend the Commission meeting so that absences could be recorded accordingly.

Commissioners' Report

No Report.

22. Consider approval of the minutes from the Regular Meeting of July 22 2008.

MOTION: Upon a motion made by Commissioner Thomason and a second by Commissioner Bishop, the Commission voted five (5) for, none (0) opposed and, to approve the Regular Meeting Minutes of July 22, 2008 with corrections. The motion carried.

23. Questions and answers from the Press and Public.

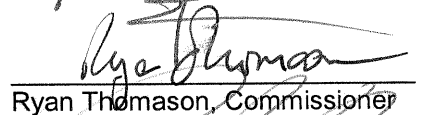
There were no questions.

24. Adjournment

MOTION: Upon a motion made by Commissioner Thomason and second by Commissioner Bryan, the Commission voted five (5) for and none (0) opposed, to adjourn the regular meeting of the Planning and Zoning Commission at 7:23 p.m. on Tuesday, August 12, 2008. The motion carried unanimously.

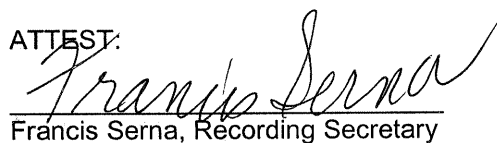

Fred A. Terry, Chair


Sherwood Bishop, Vice-Chair


Ryan Thomason, Commissioner


Curtis O. Seebeck, Commissioner


Randy Bryan, Commissioner

ATTEST:

Francis Serna, Recording Secretary